

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

JANE FIELY,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 3:13-CV-2005
)	Judge Carr
ESSEX HEALTHCARE CORPORATION,)	
et al.,)	
)	
Defendants.)	

- - -

Deposition of CIARA R. McCONN, a
Witness herein, called by the Plaintiff as if
upon Cross Examination, pursuant to the Federal
Rules of Civil Procedure, taken before me, Teri
Genovese Mauro, Registered Professional
Reporter, a Notary Public in and for the State
of Ohio, at the offices of Widman & Franklin,
405 Madison Avenue, Toledo, Ohio, on Wednesday,
August 20, 2014, commencing at 2:02 p.m.

- - -

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I N D E X

DEPOSITION OF CIARA R. McCONN

Cross Examination	Page
By Mr. Franklin	3
- - -	
Exhibits	
None	
- - -	
Objections	
By Mr. Garrison	74
By Mr. Garrison	90
- - -	

1 APPEARANCES:

2 On behalf of the Plaintiff:

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By: KERA PAOFF

6 On behalf of the Defendants:

7 FAEGRE BAKER DANIELS
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By: BRIAN R. GARRISON

9 ALSO PRESENT: Jane Fiely

10 - - -

11
12 CIARA R. MCCONN,

13 a Witness herein, called by the Plaintiff as if
14 upon Cross Examination, was by me first duly sworn,
15 hereinafter certified, testified and said as follows:

16 - - -

17 CROSS-EXAMINATION

18 BY MR. FRANKLIN:

19 Q Please state and spell your full name for
20 the record, please.

21 A Ciara McConn. Ciara Rae McConn,
22 C-I-A-R-A, R-A-E, M-c-C-O-N-N.

23 Q Ms. McConn, have you ever been known by
24 any other name?

25 A No.

1 Q What's your current residential address?

2 A 201 East Skinner Street in Ohio City.

3 Q Ohio City?

4 A Yeah.

5 Q What's the zip code there?

6 A I get it confused. It's either 45874 or
7 45891.

8 Q How long has that been your residential
9 address?

10 A I --

11 Q How long have you lived there?

12 A My parents are divorced and my dad's lived
13 there his whole life. So --

14 Q Okay. But that's how long your dad's
15 lived there. How long have you lived there?

16 A For like the past --

17 Q Is that the only place you've ever lived?

18 A No. I've lived several places with my
19 mom, but they have joint custody of me.

20 Q Okay. How long have you lived at that
21 location?

22 A Since November.

23 Q They currently have joint custody of you?

24 A No. I'm 18 now so I fully live with my
25 dad.

1 Q So have you lived with him since November
2 of '13?

3 A Yes.

4 Q Does anyone else live at that location
5 over the age of 17?

6 A Yes. My step-mom and my brother.

7 Q What's your step-mom's name?

8 A Amy McConn.

9 Q What's your brother's name?

10 A Mitchell Vargas, V-A-R-G-A-S.

11 Q Is Amy employed outside the home?

12 A Yes.

13 Q Where is she employed?

14 A At an insurance company in Celina. I
15 don't remember what it's called.

16 Q What's the name of the insurance company?

17 A I'm not for sure. She just started
18 working there recently.

19 Q Where did she work before that?

20 A She worked at Central Mutual in Van Wert.

21 Q Is Mitchell employed outside the home?

22 A He works at some factory, but he's in
23 college.

24 Q What factory does he work at?

25 A Greif Brothers, I believe.

1 Q Where's that located?

2 A That's in Van Wert.

3 Q How long has he worked there?

4 A Over the summer.

5 Q What school does he go to?

6 A Ohio University.

7 Q Main campus?

8 A Yeah, I believe so. The one in Athens.

9 Q What year is he in?

10 A He's -- when he goes back, this is going
11 to be his second year.

12 Q Sophomore?

13 A Yeah.

14 Q What counties and states have you lived in
15 since you've been 18?

16 A Van Wert and Ohio City.

17 Q Just Van Wert?

18 A (Witness nodded.)

19 Q What county is that in?

20 A Van Wert County.

21 Q You said until recently your parents had
22 shared custody?

23 A Uh-huh.

24 Q Where did you live in April of 2013?

25 A When this happened, I was living with my

1 mom in Van Wert.

2 Q What was your mom's address?

3 A 816 West Main Street.

4 Q Van Wert?

5 A Yeah. It was Apartment 25.

6 Q Other than you and your mother, was there
7 anyone else located at that location?

8 A Huh-uh.

9 Q No? What's your current business address?

10 A My workplace?

11 Q Yeah.

12 A McDonald's.

13 Q Okay. Which one?

14 A The one on Shannon Street.

15 Q Shannon?

16 A Yeah. S-H-A-N-N-O-N.

17 Q Is that in Van Wert?

18 A Yeah.

19 Q How long has that been your place of
20 employment?

21 A Since -- oh, my gosh. I really don't
22 know. I've been there off and on for like
23 two-and-a-half years.

24 Q Who is your immediate supervisor?

25 A Robin Clay.

1 Q What's Robin's position?

2 A She is the store manager.

3 Q What's your date of birth?

4 A 11/10/95.

5 Q Have you had your deposition taken before?

6 A I don't know.

7 Q Have you ever sat and raised your right
8 hand before a court reporter --

9 A No.

10 Q -- and swore to tell the truth?

11 A Huh-uh.

12 Q No?

13 A No.

14 Q I'm sure it's been explained to you, but
15 you can see that we have a court present so you'll
16 need to keep your answers audible. I may see that
17 you're nodding your head or shrugging your
18 shoulders --

19 A Yes.

20 Q -- but the court reporter can't take that
21 down. In general conversation, people anticipate
22 the question and start to answer the question before
23 it's completed.

24 A Uh-huh.

25 Q Even though you may correctly anticipate

1 my question, I ask that you allow me to finish my
2 question and I'll allow you to finish your answer.
3 That way when we read the transcript, there's not
4 the beginning of my question, the beginning of your
5 answer, the end of my question, the end of your
6 answer.

7 If I ask you a question that you don't
8 understand, I want you to tell me that you don't
9 understand my question and what part of my question
10 you don't understand. I'll then try to rephrase my
11 question and put it in a form that you will
12 understand.

13 A Okay.

14 Q There may be times that you give an answer
15 that I don't understand. That doesn't mean that I
16 don't believe your answer. You just may be using
17 some phraseology I'm unfamiliar with and I may have
18 to ask some follow-up questions so that I completely
19 understand your answer.

20 As long as there's not a question pending,
21 if you you'd like to take a break, just indicate out
22 loud on the record that you'd like to take a break
23 and we'll take one. Okay?

24 A Okay.

25 Q Did you review any documents in

1 preparation for your deposition today?

2 A Yeah. I re-read my statement.

3 Q Okay. Where did you get your statement?

4 A He sent it to me on my e-mail.

5 Q Who's "he"? Instead of pointing for the
6 record, you'll just have to put his name. Do you
7 know his name?

8 A Franklin.

9 Q No. I'm Franklin.

10 A No, you're Franklin.

11 Q You called my office initially. Did you
12 call Brian then?

13 A I believe so.

14 Q I mean, we sent you to him to call.

15 A So --

16 Q Is that --

17 A I'm bad with names, so probably.

18 Q Okay. When did you have a chance to
19 review your statement?

20 A Yesterday.

21 Q Okay. Other than reviewing the statement,
22 did you review any other documents?

23 A Huh-uh.

24 Q No?

25 A No. Sorry.

1 Q Other than reviewing the statement, did
2 you talk to anyone to refresh your recollection of
3 the events of April of 2013?

4 A I was talking with him and he just kind of
5 briefed me, I guess, of what was going to happen
6 today.

7 Q Okay.

8 A And he asked me to tell him in my own
9 words without looking at the document what had
10 happened.

11 Q Okay. Did you do that?

12 A Yes.

13 Q Did you talk to anyone other than Brian to
14 refresh yourself about today's --

15 A Huh-uh.

16 Q -- deposition?

17 A No. Because I haven't talked to Kelsey
18 and she was the only one that knew what happened.

19 Q Okay. Well, you and Kelsey did text each
20 other recently about the upcoming deposition, didn't
21 you?

22 A Yeah. 'Cause I got it and I didn't -- I
23 was assuming that it was about this, because she had
24 called me before letting -- before I had gotten the
25 subpoena letting me know that there was going to be

1 lawyers in contact with me because all of this was
2 going on.

3 Q Okay. When she called and talked to you,
4 did the two of you talk about what happened --

5 A Huh-uh.

6 Q -- in April of 2013?

7 A No. We were talking about me going to
8 college and her graduating.

9 Q Okay. Did the two of you text each other
10 about what had happened in April of 2013?

11 A No.

12 Q Who knows that you're here today having
13 your deposition taken?

14 A My dad and my brother and my step-mom and
15 my mom.

16 Q Okay. What did you tell your mom about
17 having your deposition taken?

18 A I just told her that I had to come and
19 give my statement of what happened at the nursing
20 home, and she knew, 'cause I had told her when it
21 happened, 'cause I had to write my statement while I
22 was in class.

23 Q Okay. What do you mean you told her when
24 it happened?

25 A I kind of explained to her why I had to

1 leave class and write out -- or I typed it on my
2 phone, but to do a statement.

3 Q I mean, did someone require that you leave
4 class to immediately send in your statement?

5 A No. I was at lunch, so I just did it on
6 my phone while I was eating, and then I went -- I
7 e-mailed it to myself and then had the office fax it
8 to the nursing home.

9 Q Okay. You said that you told your
10 step-mom --

11 A No, my mom.

12 Q Okay. Did you tell your step-mom that you
13 were having your deposition taken?

14 A Yes.

15 Q Okay. What did you tell her?

16 A I just told her that I had to go give my
17 statement of what happened when I was working at the
18 nursing home.

19 Q Okay. You said you also told your father?

20 A Yes.

21 Q Your father brought you here today?

22 A Uh-huh.

23 Q Yes?

24 A Yeah.

25 Q What did you tell your father?

1 A I told him that -- about the incident that
2 happened at the nursing home and that I had to come
3 give my statement.

4 Q Okay. Do you not have a driver's license?

5 A No. My dad doesn't like me driving. He
6 doesn't even like me driving to Lima so --

7 Q Okay. Do you not have a driver's license?

8 A No, I have a license. I can drive.

9 Q Have you been in accidents before?

10 A Yes. I got rear ended.

11 Q Have you been in any accidents that were
12 your fault?

13 A No.

14 Q When was the last time you worked at
15 St. Marys?

16 A I don't remember.

17 Q Was it in this year? Was it last year?

18 A It was in last year sometime.

19 Q Okay. Was it before Christmas or after
20 Christmas?

21 A I believe it was before Christmas.

22 Q Was it before Thanksgiving or after
23 Thanksgiving?

24 A I think it might have been after
25 Thanksgiving.

1 Q Okay. So you think sometime between
2 Thanksgiving and Christmas of '13?

3 A I think so.

4 Q Why did you stop working at St. Marys?

5 A Because with my pay and gas and everything
6 else, it was -- I was back at my McDonald's wages.

7 Q Okay. Well, did you ask for a pay
8 increase?

9 A No.

10 Q I don't understand why being back at your
11 McDonald wages would have caused you to leave
12 St. Marys?

13 A Because it was just the drive every single
14 day and I didn't like it, like the driving. I liked
15 my job there. I just hated the driving.

16 Q How long was the drive?

17 A From Van Wert to St. Marys, I really don't
18 remember how long that is.

19 Q Well, was it more than 30 miles?

20 A I -- do you know how far it is from Van
21 Wert to Ohio City? 'Cause I really -- or sorry, Van
22 Wert to St. Marys? Because I really don't know.

23 Q Well, you said you didn't like the drive
24 every day.

25 A Yeah.

1 Q What was it about the drive you didn't
2 like? The distance?

3 A Just, yeah, the distance of just sitting
4 in my car driving to work when I could have been
5 working or doing homework.

6 Q But you don't know what that distance is?

7 A I don't remember. It's been a decent time
8 period since --

9 Q Well, how long did you work at St. Marys?

10 A I don't remember.

11 Q When did you start there?

12 A Sometime in 2013. It had to have been
13 after Christmas.

14 Q No. That's when you -- you haven't --
15 when did you start working at the St. Marys'
16 facility?

17 A It was sometime my junior year after
18 Christmas because -- I believe it was after
19 Christmas, because that was when I got my STNA and I
20 started working --

21 Q Okay. So was that in '12?

22 A Possibly. 'Cause I just graduated this
23 year.

24 Q So you think that you may have started
25 working in '12?

1 A Yes.

2 Q Okay. Where did you get your STNA from?

3 A At Vantage.

4 Q Is that a vocational school?

5 A Yeah.

6 Q Did you attend a regular high school and
7 the vocational school or just the vocational school?

8 A No, just the vocational school. We had
9 our lab and then we had our math and English and
10 classes like that.

11 Q How long did you go to Advantage [sic]
12 Vocational School?

13 A For two years.

14 Q Was that eleven and twelve?

15 A Yes.

16 Q Eleventh grade and twelfth grade?

17 A Uh-huh.

18 Q Where did you go for ninth and tenth
19 grade?

20 A Van Wert High School.

21 Q So when you graduate, do you graduate from
22 Advantage or from Van Wert or both?

23 A From Van Wert.

24 Q Other than graduating from Van Wert, do
25 you have any college education?

1 A No. I'm going to college in two weeks.

2 Q Where are you going?

3 A I -- International Business College. It's
4 in Fort Wayne.

5 Q In Portland, Oregon, or Portland, Maine?
6 Did you say -- I thought --

7 MR. GARRISON: Fort Wayne.

8 A Fort Wayne.

9 Q Oh, Fort Wayne.

10 MR. GARRISON: Close to Portland.

11 Q How long do you intend on going to college
12 there?

13 A As of right now, 18 months.

14 Q What happens at the end of 18 months?

15 A I get my degree -- or no, my diploma.

16 Q Okay. Diploma to do what?

17 A For medical assisting.

18 Q And what does a medical assistant do?

19 A I can take blood pressures, do IVs. I
20 don't fully know the rest of it. I just know I can
21 do IVs which is what I mainly want to do.

22 Q Have you turned in your notice to
23 McDonald's?

24 A Yes.

25 Q Do you know someone that goes to that

1 school?

2 A Yes. I -- Peyton Dowdy, I believe, is the
3 last name.

4 Q Whose Peyton Dowdy?

5 A Her dad was my football coach and she went
6 to Van Wert.

7 Q When you worked at the St. Marys'
8 facility, were you part time?

9 A Yes.

10 Q What was the typical schedule?

11 A I know I had to work every other weekend
12 and then I think it was like three days a week
13 maybe.

14 Q Three days a week?

15 A I think.

16 Q What days would you typically work?

17 A I don't remember.

18 Q Okay. Did you work on Fridays?

19 A If I worked that weekend, then I didn't
20 work on Fridays.

21 Q Okay. But if you worked on Fridays, then
22 you had the weekend off?

23 A Yeah.

24 Q Have you ever been a plaintiff in a
25 lawsuit; you've sued someone?

1 A No.

2 Q Ever been a defendant in a lawsuit;
3 somebody sued you?

4 A This is the first any legal anything I've
5 had to do.

6 Q So other than today, you've never been a
7 witness in a lawsuit?

8 A No.

9 Q Have you ever given testimony under oath,
10 let's say in an unemployment hearing or --

11 A Huh-uh. No.

12 Q -- Workers' Compensation hearing?

13 A Nope.

14 Q Have you ever been arrested for a
15 misdemeanor or felony?

16 A No.

17 Q Ever served in the military?

18 A No.

19 Q Since you started working at St. Marys,
20 who was your supervisor just by title?

21 A The DON and the -- I'm not going to be
22 able to think of it. I can't think of her title or
23 her name right now.

24 Q Is it the administrator?

25 A Yeah.

1 Q Yes?

2 A Yes.

3 Q Okay. Do you remember who the DON was?

4 A It was Jane.

5 Q Do you remember who the administrator was?

6 A Lorraine, I think.

7 Q Okay. How did you and Jane get along?

8 A She was my boss. I mean, she intimidated
9 me but she was my boss. I didn't really talk to her
10 outside work.

11 Q Did she intimidate you simply because she
12 was your boss?

13 A Kind of.

14 Q Did the administrator intimidate you?

15 A Huh-uh.

16 Q Is that because you didn't have any
17 interaction with the administrator?

18 A No. She -- just her tone and the way she
19 talked to me was just more friendly and --

20 Q Was she giving -- did she give you
21 direction as to what to do or did the DON do that?

22 A They both would. Like, if there -- if
23 they saw a resident's light on and they went in
24 there to see what they need, if they saw me walking
25 down the hallway, either one would say, you know, so

1 and so needs this.

2 Q But on a day-in and day-out basis, did you
3 have like a particular wing, let's say the 200 Wing
4 or the 300 Wing or how did that work?

5 A It was -- I don't remember which hall was
6 which, but it was normally the hall when you first
7 walk in.

8 Q Okay. And then would you have things that
9 were scheduled for you to do?

10 A We had scheduled showers that we would --

11 Q Okay. Anything other than scheduled
12 showers?

13 A No.

14 Q If a patient turned on their light, would
15 you go and see what they needed?

16 A Yes.

17 Q Sometimes they would need you to change
18 their diaper?

19 A Yes.

20 Q Sometimes they need you to roll them over?

21 A (Witness nodded.)

22 Q Sometimes -- yes?

23 A Yes.

24 Q Sometimes they need you to help them go to
25 the restroom?

1 A Yes.

2 Q Sometimes they would need you to help them
3 eat?

4 A Yes.

5 Q Okay. Were you evaluated in your
6 position? In other words, did you get anything in
7 writing saying you were doing your job good or bad
8 or --

9 A No. I don't think I was there long enough
10 for an evaluation.

11 Q Why did you want to work there?

12 A Because Gabby, who initiated the
13 scheduling, I don't know what her title was, but
14 Gabby's daughter worked with me at McDonald's and
15 she had me talking to Gabby about me working there
16 because she thought I'd be a good fit.

17 Q So did you work basically the two jobs at
18 that point, the job at St. Marys and McDonald's?

19 A No. Just St. Marys.

20 Q When you left St. Marys, did you give them
21 a written resignation?

22 A Yes.

23 Q Who did you give that to?

24 A I put it in the box that we put like for
25 request time off. I don't know -- I believe it went

1 to Gabby.

2 Q After Jane left, did someone else become
3 the DON?

4 A Yeah, but I don't remember her name.

5 Q Was it Erika?

6 A I don't remember.

7 Q Okay.

8 A I only saw her a handful of times.

9 Q How did you come to find out that Jane was
10 no longer working at St. Marys?

11 A When they had her office door open and
12 there was just like her computer in there.

13 Q Okay. So you noticed she wasn't sitting
14 at her desk?

15 A Yeah, and her office looked cleaned out.

16 Q Did you ever then ask --

17 A Yeah.

18 Q -- anyone "Where's Jane"?

19 A I believe I asked one of the nurses, and
20 whoever it was, they told me that she had either
21 been fired or quit or --

22 Q Were -- strike that. Did Jane ever issue
23 any type of discipline to you?

24 A No.

25 Q Who could issue discipline to you? Could

1 another STNA issue discipline?

2 A I don't believe so.

3 Q Could an LPN issue discipline?

4 A I think they could.

5 Q Could an RN issue discipline?

6 A I think. I -- I never had any
7 disciplinary issues so I didn't really know.

8 Q Taking you back to April 19th, 2013, did
9 you witness anything out of the ordinary between
10 Jane and Kelsey?

11 A Yes.

12 Q Okay. For the record, who is Kelsey?

13 A Kelsey is the STNA that I worked with, one
14 of them.

15 Q So she was your coworker?

16 A Yes.

17 Q Are you and Kelsey Facebook friends?

18 A I believe so.

19 Q Do you have any other type of social
20 media?

21 A Twitter and Instagram.

22 Q Do you follow Kelsey or does she follow
23 you on Twitter?

24 A Huh-uh. No. Sorry.

25 Q What's the other one?

1 A Instagram.

2 Q Are the two of you connected by way of
3 Instagram?

4 A No.

5 Q Would the two of you, before this incident
6 with Jane, ever socialize outside the workplace?

7 A No.

8 Q Had you ever been over to Kelsey's house?

9 A No.

10 Q Did Kelsey have a boyfriend you were aware
11 of?

12 A At the time, I think she did.

13 Q Who was it, do you remember?

14 A I don't remember.

15 Q Okay. Let's go back to the day of
16 April -- April 19th, 2013. What would your typical
17 schedule be? Second shift?

18 A Yes.

19 Q What time did second shift start and stop?

20 A I know it got done at 11:00. I forget
21 what time it started, but I know I normally got
22 there later since I had school and driving from
23 school to nursing home.

24 Q Okay. So what would you typically do when
25 you got to work?

1 A When I got to work, I would put myself in
2 the break room and then go clock in, and at that
3 time, we would normally be passing linens and doing
4 ice and just checking and seeing if the residents
5 needed anything.

6 Q Did you have some set day-in and day-out
7 operation that you performed?

8 A I -- we -- me and Kelsey would pass linens
9 on our half of the hallway and then Darla would do
10 her half, and then we would go get the ice. Then me
11 and Kelsey would do that, then Darla would do it.

12 Q Why would you and Kelsey be doing things
13 together?

14 A Because normally me and Kelsey were on the
15 same hall.

16 Q Were there only two STNAs on that hall?

17 A Yes.

18 Q Do you remember what hall that was?

19 A No. I know it was the first hall when you
20 walk in.

21 Q Would the two of you then be tending to
22 the same patients?

23 A No. We -- normally we would have the cart
24 up against one of the walls and Kelsey would do one
25 half of the hallway and I would do the other half.

1 Q So what did you witness out of the
2 ordinary, if anything, between Kelsey and Jane on
3 April 19th, 2013?

4 A I saw that after me and Kelsey were done
5 passing their dinner trays, me and Kelsey noticed
6 that the resident -- I can't remember her name, but
7 that she didn't have a supper tray. So Kelsey went
8 to the kitchen to ask them where her supper tray
9 was. She -- the kitchen had told Kelsey that she
10 was supposed to be eating in the dining room.

11 Q Okay. So -- and I'm trying not to
12 interrupt, but unfortunately I think kind of just in
13 sentences as opposed to totality of stories. Who
14 was it, you or Kelsey, that noticed a particular
15 resident didn't have a dinner tray?

16 A I don't remember, 'cause I know we were
17 passing them together.

18 Q Okay. But why were you passing dinner
19 trays? Why weren't you -- why weren't people eating
20 in the dining room?

21 A Because some of the residents would eat in
22 their rooms and some of them would eat in the dining
23 room. I don't --

24 Q Did they have a choice?

25 A Yes.

1 Q I mean, what if they didn't want to eat in
2 the dining room? Were they allowed to eat in their
3 rooms?

4 A I believe so.

5 Q Is that under something called the
6 patient's rights?

7 A Yes.

8 Q Do you know what patient's rights are?

9 A Yeah. The basics of needs and being
10 comfortable and things like that. I don't remember.

11 Q Well, have you ever read the patient's
12 rights?

13 A Yeah. We had to read it in Vantage.

14 Q Did you ever have to read it when you were
15 employed by St. Marys?

16 A Yes.

17 Q Okay. So it wasn't the patient or a
18 family member that notified you? The two of you,
19 one of you or both of you noticed the person didn't
20 have a dinner tray?

21 A I believe that it was near Kelsey that
22 noticed that it was --

23 Q And then why did she go down to the
24 kitchen as opposed to you?

25 A Because there was a call light on, so I

1 said I would get the call light and Kelsey went down
2 to the kitchen.

3 Q Okay. So the two of you split up at that
4 point?

5 A Yes.

6 Q What room was the call light on?

7 A It was the first room on the left.

8 Q Okay. And then from -- in relation to the
9 first room on the left, where did you notice the
10 room without the dinner tray?

11 A It was directly across the hall.

12 Q Okay. So it would be the first room on
13 the right?

14 A It was the second room on the right.

15 Q Second room on the right.

16 A At that time, the very, very first room
17 was just like an extra room that there was a table
18 and chairs in.

19 Q Okay. In relation to that -- the room on
20 the left and the right, where's the kitchen; up a
21 floor, down a floor, on the same floor?

22 A It was on the same floor.

23 Q Okay. How far away?

24 A 20 feet.

25 Q Okay. Do you have to go through doors?

1 What do you have to do?

2 A You --

3 Q Paint a picture for me.

4 A The -- both of the rooms were right here.

5 Then you went this way, turned the corner, and then

6 the dining room was over here and the kitchen was

7 like right here.

8 Q Okay. Do you have to go through the

9 dining room to get to the kitchen?

10 A No. We could go in the kitchen door. We

11 just had to put a hair net on before we actually

12 stepped past the threshold, I guess.

13 Q Well, let's say I don't want to put a hair

14 net on. How do I get into the kitchen?

15 A Then you would walk through the dining

16 room.

17 Q Okay. And then I could just talk to

18 someone in the kitchen?

19 A Yes, because there was a door from the

20 dining room to the kitchen.

21 Q Do you guys carry hair nets with you?

22 A No. There were hair nets in the -- by the

23 sinks in the kitchen.

24 Q I mean, I could use somebody else's hair

25 net?

1 A No. Like there was -- I don't know how to
2 explain it. There was a box of new hair nets that
3 we would pull out.

4 Q Oh, okay. So the hair nets are -- I would
5 go in the kitchen door and there would be a hair net
6 there?

7 A Yes.

8 Q And if I went through the dining room, I
9 wouldn't need a hair net?

10 A No. You'd still need a hair net, but you
11 weren't allowed to go through the threshold of
12 the -- from the dining room to the kitchen without a
13 hair net.

14 Q Okay.

15 A But we could stand there and talk to them.

16 Q Who's in the kitchen? Is it a vendor? Is
17 it employees?

18 A It's the employees. I believe there was
19 two of them on most nights.

20 Q What are they called? Like, do they have
21 a designation of kitchen aide or --

22 A We just --

23 Q -- kitchen people?

24 A -- called them the kitchen people.

25 Q Okay. Was there like a head kitchen

1 person, a subordinate kitchen person --

2 A Yes.

3 Q -- or are they both on the same level?

4 A It just depended on the night of who was
5 like the higher cook and who was just the assistant
6 cook.

7 Q Okay. But there was typically some
8 delineation? They weren't both on the same level?

9 A Yes.

10 Q Okay. Who did the kitchen people report
11 to?

12 A I believe they reported to Jane and
13 Lorraine.

14 Q Okay. So you think the kitchen people
15 might have reported to the DON?

16 A Yes.

17 Q Okay. So you go to tend to the room that
18 had the call light. Do you remember what you did
19 there?

20 A I know she was a two assist, so I had
21 step -- I don't remember what she needed, but I had
22 to step back out of the hallway 'cause I needed
23 Kelsey's help, and I stood outside the hallway for a
24 couple seconds waiting for Kelsey to come back.

25 Q What's a two assist mean?

1 A They -- you have to have two people to
2 move them up in bed or change their Depends or get
3 them from --

4 Q Why couldn't you just use like a Hoyer
5 Lift?

6 A Because you have to have two people for a
7 Hoyer. You have to have two aides to use a Hoyer.

8 Q Was this person -- did this person need a
9 Hoyer or just two people?

10 A No, just two people.

11 Q Okay. If they need a Hoyer, is the sign
12 like hung on the wall or something?

13 A It was in their charts.

14 Q Okay. So would you check their charts
15 before you would administer any type of aid?

16 A No.

17 Q Okay. Then how did you know this
18 particular person didn't need a Hoyer Lift which
19 would include the two of you plus the lift?

20 A Because I never seen her on a Hoyer before
21 and she was heavy enough that I couldn't do it by
22 myself, but light enough that two people could do it
23 just fine.

24 Q Okay. So what happens after you realize
25 you need two people? What do you do?

1 A I stepped out to go look for Kelsey.

2 Q Okay.

3 A 'Cause I know I needed Kelsey to help with
4 her. And then that was when the altercation between
5 Kelsey and Jane happened.

6 Q Okay. Just instead of painting it with a
7 conclusion. Tell us what you saw.

8 A I saw Kelsey talking to the resident that
9 this was about, her daughter, because she was there
10 that night.

11 Q Okay. So there was no confrontation, as
12 you say, at this point?

13 A Yes. Correct.

14 Q Okay. So you see -- I thought that you're
15 in the room directly across or it's one down from
16 where you're at?

17 A It's just -- like they're facing each
18 other.

19 Q So you see Kelsey talking to the patient?

20 A The patient's daughter.

21 Q Well, I mean, it's the patient that
22 decides where they want to eat, right? Not the
23 patient's daughter?

24 A Yeah, but Kelsey was talking to her and I
25 didn't hear --

1 Q Okay.

2 A -- what they were saying.

3 Q So you couldn't hear what they were
4 talking about?

5 A No.

6 Q You just saw them talking?

7 A Yes.

8 Q Okay.

9 A And I knew already that she did not have a
10 supper tray yet, so I assumed that's what they were
11 talking about.

12 Q Okay. But you couldn't hear it?

13 A No.

14 Q So the rest -- what they were talking
15 about is just an assumption?

16 A Yes.

17 Q Okay. So you see Kelsey talking, do you
18 see Jane at that point?

19 A I do not believe so.

20 Q Okay. So tell us everything you
21 witnessed.

22 A So after then, I remember that Kelsey came
23 out in the hallway and that Jane -- I don't remember
24 how Jane had gotten there, whatever, but I remember
25 that Jane talked to Kelsey. They started talking

1 and I was standing beside Kelsey because I didn't
2 think -- I thought it was just going to be a simple
3 just five-second conversation and then I could get
4 Kelsey to help me with my resident.

5 Q Okay. Well, if Kelsey is talking to the
6 DON --

7 A Yes.

8 Q -- what makes you presume it's just a
9 five-second -- going to be a five-second
10 conversation as opposed to the DON giving Kelsey
11 some instruction or maybe some discipline or some
12 counseling?

13 A There wasn't.

14 Q I mean, I'm just interested into why you
15 made the assumption it was just going to be a
16 five-second conversation?

17 A Because I figured that it was going to be
18 about the resident not having the dinner tray and
19 her daughter wanted her to eat in her room so her
20 daughter could visit with her.

21 Q Okay. But that isn't what happened,
22 right?

23 A Yes. That wasn't the conversation that
24 happened between them.

25 Q So after the five seconds, after you

1 realized this is going to be longer than a
2 five-second conversation, do you still stay there?

3 A Yes.

4 Q Why?

5 A Because it started to get a little heated
6 and I didn't know what was going to happen.

7 Q What were you going to do?

8 A I didn't know. That was the first time I
9 had ever worked in a nursing home health care
10 facility.

11 Q Okay.

12 A And all of it was new to me.

13 Q Well, you knew the DON wasn't giving you
14 any instruction, correct?

15 A Yes.

16 Q And you weren't involved in the
17 conversation?

18 A Correct.

19 Q So why didn't you just go do your job?

20 A 'Cause I needed Kelsey to help me. I
21 couldn't do it.

22 Q You couldn't have done any other job at
23 the facility except the job that required two
24 people?

25 A I don't remember if there was any other

1 call lights on at the time.

2 Q Well, do you always have to have a call
3 light or couldn't you just check on a resident and
4 see if they need anything?

5 A Yes, I can do that.

6 Q Okay. Why didn't you?

7 A I don't remember.

8 Q I mean, there are lots of other things you
9 could do with a resident than whatever the other
10 resident needed by way of the two of you --

11 A Uh-huh.

12 Q -- turning the resident over, correct?

13 A Yes.

14 Q So were you just standing there out of
15 curiosity?

16 A I don't remember. It was over a year ago.

17 Q I'm just trying to see your motive for
18 standing there. What, did you think you were going
19 add to the conversation or add to the situation or
20 prevent or you just don't know?

21 A I really don't remember.

22 Q You just decided to stand there?

23 A Yes.

24 Q Okay. How close were you to Jane and
25 Kelsey?

1 A Kelsey and Jane were facing each other and
2 I was standing over here looking at them.

3 Q Okay. But I want to know the distance;
4 like ten feet, five feet, one foot,
5 thirty centimeters? Put it in whatever you --

6 A Maybe --

7 Q Are you counting tile ceilings?

8 A Four feet.

9 Q Four feet. Okay. So you're four feet
10 away. Where are you then in relation to the room
11 where you saw Kelsey talking to the relative of the
12 patient?

13 A The room was behind me.

14 Q Okay. So you are, in your best estimate,
15 four feet. Could you have been six or seven feet
16 away?

17 A I don't believe I was that far away.

18 Q Okay. Wherever they were standing, the
19 door to the family that concerned the food was
20 behind you?

21 A Yes.

22 Q How far behind you?

23 A It was very close behind me. I mean, it
24 had to have been a foot or less.

25 Q Okay. What are you observing?

1 A That Kelsey and Jane were talking to each
2 other and Jane was getting upset.

3 Q Okay. Well, how could you tell Jane was
4 getting upset from your vantage point?

5 A From her tone of voice and the expression
6 on her face. Wasn't just a --

7 Q Okay. What was the expression on her
8 face?

9 A Just an angered expression.

10 Q I don't know what that is. I mean was she
11 showing her teeth like a dog or --

12 A No.

13 Q -- what does an angered expression look
14 like?

15 A I just -- I don't know how to explain
16 that.

17 Q I mean, was her face red? I'm just --
18 describe her demeanor because I take it you've had
19 no medical training that would show she was having a
20 stroke or anything. So just in layman's terms, what
21 were you witnessing?

22 A She -- I don't know how to explain her
23 having an angry look on her face.

24 Q Yet you came to that conclusion. So
25 people come to conclusions based on something even

1 if it's ridiculous. What is your testimony as to
2 why you thought she was angry?

3 A I don't really know how to explain that
4 any more than I remember that she had an angered
5 look on her face.

6 Q Okay. Could you hear what she was saying?

7 A Yes. I don't remember word for word what
8 she was saying, no.

9 Q Okay. Well, was she chastising Chelsea
10 [sic] for not doing something?

11 A What is that?

12 Q Was she upset with her, in your opinion,
13 about not doing something or about doing something?

14 A Yes.

15 Q Okay. Which is it, Chelsea didn't do
16 something or Chelsea did do something?

17 A That Kelsey --

18 Q Kelsey, I'm sorry.

19 A -- told the resident that the kitchen had
20 told Kelsey that she needed to eat in the dining
21 room. Do you need me to repeat that?

22 Q Yeah. Sure.

23 A Kelsey told the resident that the kitchen
24 had told Kelsey that the resident needed to eat in
25 the dining room.

1 Q And that's what you think Jane was upset
2 about?

3 A Yes.

4 Q That's what you heard?

5 A Yes.

6 Q Okay. Did you hear anything where Jane
7 said you shouldn't have told the resident that I
8 said she had to eat in the dining room and not the
9 kitchen?

10 A I know that Kelsey said that it had to be
11 approved through, I know, at least, Gabby for
12 someone to permanently eat either in their room or
13 in the dining room.

14 Q That's what you heard Kelsey say to Jane?

15 A Something in those words. Not exact. It
16 was over a year ago. So I'm not going to quote
17 Kelsey on her exact words.

18 Q Okay. And you're not going to quote Jane
19 on her exact words, right?

20 A Correct.

21 Q I mean, 'cause you just don't remember
22 what Jane said and not remember what Kelsey said?
23 Right?

24 A Yes.

25 Q Okay. So was Kelsey -- did she have a

1 stern tone in her voice?

2 A No.

3 Q She was calm?

4 A Kelsey just seemed like she was trying to
5 explain.

6 Q How does someone seem like they were just
7 trying to explain?

8 A Just a calm voice.

9 Q Okay.

10 A Just a normal --

11 Q Did it look like she was going to cry?

12 A No.

13 Q Okay.

14 A Not at first.

15 Q Not at first?

16 A Yes.

17 Q Okay. How long were you standing there
18 not doing your job?

19 A It wasn't -- the whole altercation wasn't
20 that long. I don't remember.

21 Q I want to know how long you were standing
22 there.

23 A I don't remember how long I was standing
24 there.

25 Q Well, was it like minutes?

1 A Yes.

2 Q Was it -- you were there for minutes?

3 A Yes.

4 Q Okay. You never put your hands up and
5 just walked away?

6 A No.

7 Q Okay. So tell me more of this story.
8 What were you witnessing? I mean, Kelsey apparently
9 had a calm demeanor and Jane was apparently upset
10 and you were just standing there watching it all.
11 What else did you see or hear?

12 A I -- they continued talking and then Jane
13 had put her hand on Kelsey's shoulder and pushed
14 Kelsey back and Kelsey kind of stumbled back up
15 against the wall.

16 Q Oh, she stumbled? How far was she from
17 the wall?

18 A Maybe three feet from the wall.

19 Q Three feet? Jane, the 60-year-old female
20 hit Kelsey, the 22-year-old female, with such force
21 that she fell back three feet; is that your
22 testimony?

23 A She didn't punch her. She had her --

24 Q No. Pushed with such force that she went
25 back three feet. That's what you want your

1 testimony to be?

2 A Yes.

3 Q Okay. Which hand did Jane use to push?

4 A I don't remember.

5 Q Well, this is important. You're
6 visualizing from the side and you are the person
7 that's standing there watching it all for minutes.
8 Which hand did Jane use to push Kelsey?

9 A I do not remember.

10 Q Which shoulder did Jane push on Kelsey?

11 A I don't remember.

12 Q So you can't tell us what arm or hand Jane
13 used and you can't tell us what shoulder Jane
14 allegedly pushes, but you know that somehow Kelsey
15 gets shoved into the wall?

16 A Yes.

17 Q Is that your testimony? Okay. Do you
18 know if Jane is right-hand dominant or left-hand
19 dominant?

20 A I don't know.

21 Q Do you know what that means?

22 A Yes. Like right-handed, left-handed,
23 which one you write with.

24 Q Okay. So what did you witness after
25 witnessing Kelsey stumble?

1 A I -- Kelsey just had a very shocked look
2 on her face.

3 Q Okay. What's a shocked look?

4 A Jaw dropped. In, like, awe look on her
5 face.

6 Q A jaw dropped, in-awe look, what's an
7 in-awe look?

8 A Just, oh, my gosh, that really happened
9 kind of look.

10 Q I don't know what an, oh-my-gosh look
11 looks like.

12 A Just a shocked look. I don't --

13 Q Yeah. You're back to using the word
14 shocked again. We've come full circle?

15 A I don't know how to explain facial
16 expressions.

17 Q Well, tell me what you're observing. You
18 apparently observed her jaw drop. What else did you
19 observe that led you to the conclusion she was in
20 shock?

21 A Just the expression on her face.

22 Q Okay. You're not testifying that she was
23 from a clinical standpoint in shock?

24 A No. Like she wasn't like medically in
25 shock.

1 Q Was she crying?

2 A She looked like she was getting ready to
3 cry.

4 Q Okay. And you still stood there and
5 watched?

6 A Yes, 'cause I was worried about Kelsey at
7 that point.

8 Q And if you were worried about Kelsey, why
9 did you just stand there and watch? Why didn't you
10 go interact into what was happening? I mean, tell
11 Jane, that's enough, tell Kelsey, come with me, do
12 anything to calm down the event?

13 A I don't know.

14 Q Well, I mean you say that you were worried
15 about Kelsey, and I'm just wondering how you think
16 you were helping her by standing there for minutes
17 watching the event?

18 A I don't know how I was helping her
19 watching it.

20 Q I mean, did you try to get a nurse to
21 come? Did you do anything to cause anyone else to
22 intervene?

23 A No. I knew one of the nurses was in the
24 dining room and I didn't know where the other one
25 was.

1 Q Well, was there anyone else in the area
2 that was even closer than you?

3 A Closer to them --

4 Q Yeah.

5 A -- than me? No.

6 Q Okay. So when you're making this
7 two-minute or minute's long observation, is there
8 anyone else in the area?

9 A No.

10 Q Just you?

11 A Yes.

12 Q Okay.

13 A And then after it was all done, Darla, one
14 of the other aides, came down the hallway from the
15 kitchen or from the dining room.

16 Q Did you ever see Jill?

17 A Yeah. She was standing there when that
18 happened with Kelsey.

19 Q Oh, see, you didn't tell me that. You
20 said you were the only one who was there.

21 A Oh, wait. Wait. I'm bad with names.
22 That one's Jane, right? And Jill's the --

23 Q Well, did you witness her or her or her or
24 me? Who was there that night?

25 A No, it was me and Kelsey and her.

1 Q Okay. You're pointing to someone, who are
2 you pointing to?

3 A Jane, I believe. I'm bad with names.

4 Q Okay. Well, wasn't Jane the DON?

5 A Yes.

6 Q Did you not know who your DON was?

7 A Yeah, I knew that she was my DON. I'm bad
8 with names and faces.

9 Q You just didn't know her name?

10 A Like I have a hard time matching up a name
11 with a face.

12 Q Okay. Well, you know -- if I tell you
13 this is Jane --

14 A Yes.

15 Q -- you know that she was the one that
16 you're observing apparently in the conversation with
17 Kelsey, right?

18 A Yes.

19 Q And you said it's just you watching?

20 A Yes.

21 Q And then after it was done, Darla came up
22 from the dining room?

23 A Yes.

24 Q That's your testimony?

25 A Yes.

1 Q And then I asked you about someone named
2 Jill; do you know who Jill is?

3 A That was the -- she was -- yeah, she was
4 the --

5 Q She's not an STNA. Keep going.

6 A I know she was -- she wasn't a nurse.
7 She -- Jill was the -- one of the nurses, I believe.

8 Q Well, first you've said she wasn't a
9 nurse, now you say she is a nurse. Which is it?

10 A I don't remember. It has been a while
11 since I've worked there and it's --

12 Q But you would know Jill to look at her?

13 A Yes.

14 Q And you know the difference between Jill
15 and Darla?

16 A Yes.

17 Q So you know from your testimony so far the
18 only person that came up to the scene was when it
19 was done, Darla came up from the dining room?

20 A Yes.

21 Q Are you still standing there?

22 A Yes.

23 Q Okay. So you witnessed the entire event
24 and you just stood there?

25 A Yes.

1 Q Yet at the event is exactly what you're
2 testifying to?

3 A Yes.

4 Q Okay. So you see and hear after Kelsey
5 stumbles back and you say her jaw dropped and she
6 had a shocked look on her face, what did you observe
7 next?

8 A I don't remember what happened after it
9 was all done.

10 Q No. That was -- that was the end of it?

11 A I believe so, 'cause that was the last
12 thing that I remember was Kelsey stumbling back
13 against the wall and being -- having a shocked look
14 on her face.

15 Q Okay. Did Kelsey say anything?

16 A Not that I remember.

17 Q Okay. So then the incident was done?

18 A I -- as to what I remember, yes.

19 Q Okay. Where did Jane go?

20 A I don't remember.

21 Q Well, did she just vanish?

22 A No.

23 Q Okay. Which way did she walk?

24 A I do not remember.

25 Q Okay. Did you say anything to Jane?

1 A No.

2 Q Did Jane see you were there?

3 A Yeah. I'm not invisible, so I'm fairly
4 sure she knew I was standing there.

5 Q Well, Jane's not invisible and you can't
6 tell me where she went, right?

7 A Yes.

8 Q How do you know that given that Jane's
9 vision was forward talking to Kelsey that she even
10 saw you there?

11 A I don't have proof of that. I mean, I
12 can't see out of her eyes, so I don't know.

13 Q Right. So you don't know if she saw you.
14 Did she ever say hello or sorry you witnessed that
15 or any words to let you know that she noticed you
16 there?

17 A Not that I remember.

18 Q Okay. So does Jane leave somehow and then
19 is that when Darla comes up from the dining area?

20 A Yes.

21 Q Okay. After Jane's gone --

22 A Yes.

23 Q -- Darla comes up?

24 A Yes.

25 Q And Darla's an STNA?

1 A Yes.

2 Q And what does Darla say or do?

3 A I do not remember.

4 Q Okay. Did Darla say anything to you?

5 A I don't remember.

6 Q Did Darla say anything to Kelsey?

7 A I do not remember.

8 Q Okay. You just know that she came out of
9 the dining room?

10 A Yes.

11 Q Are the dining room doors typically shut
12 or open?

13 A They were open at that time because there
14 were residents down in the dining room.

15 Q Okay. So you don't know if Darla was just
16 around the corner listening to everything or if
17 Darla was on the other side of the dining room?

18 A Correct.

19 Q You just know you saw her coming?

20 A Yes.

21 Q Then did you, given what you just
22 witnessed, go over and talk to Kelsey?

23 A I believe so. I don't remember though.

24 Q Did you say anything to Kelsey about the
25 incident?

1 A I know that I asked her if she was okay.

2 Q Okay. Other than that, I mean, did you
3 see like any contusions? Did you see any blood?

4 A No.

5 Q Okay. So from a visual inspection, you
6 didn't see that she was physically harmed?

7 A Correct.

8 Q Was she crying?

9 A She was tearing up. She was not --

10 Q See, I don't know what tearing up is.

11 A She had tears in her eyes.

12 Q Okay. So she was crying?

13 A Yes, but they -- I mean, they were not
14 falling out of her eyes. I don't know how else to
15 explain that.

16 Q Well, did you offer her a Kleenex?

17 A No, because the only Kleenex that were
18 around were in the residents' rooms.

19 Q Is there something that precludes you from
20 going into a resident's room and getting a Kleenex?

21 A The Kleenexes are theirs. I --

22 Q They buy their own Kleenexes?

23 A No. The nursing home buys them and then
24 they pay for them and I don't understand the whole
25 billing aspect but --

1 Q Do you think that you would have been
2 violating some type of work rule if you would have
3 got Kelsey a Kleenex out of one of the resident's
4 rooms?

5 A No.

6 Q Okay. In fact, you were supposed to be
7 going back into a resident's room with Kelsey to
8 help a resident?

9 A Yes.

10 Q Correct? Did you do that?

11 A I don't remember.

12 Q I thought you told me that you needed to
13 turn a resident so --

14 A I don't remember --

15 Q -- you could change their diaper?

16 A -- what the resident needed. I just
17 remember that I needed to be in that room and it was
18 a two assist.

19 Q Okay. Well, what are the possibilities
20 for a two assist?

21 A She could have needed to go to the
22 bathroom. I don't remember if she had a portable
23 toilet. She could have needed to do that. I could
24 have needed to turn her. It could have been simple
25 things.

1 Q Or she might have been sitting in her own
2 feces and needed to be cleaned, correct?

3 A Yes.

4 Q So would you have just left her in that
5 condition?

6 A No.

7 Q Okay. So did you ever go back in the room
8 and do anything?

9 A I know I went back in there and finished
10 whatever it was that I needed to do, but I don't
11 remember what it was.

12 Q Okay. But you said whatever you needed to
13 do required two people?

14 A Yes.

15 Q So did you take someone else in there with
16 you?

17 A Yes, I believe Kelsey was in there with
18 me.

19 Q See, I don't like testimony "I believe."
20 Either Kelsey was in there, you have present day
21 recollection she was in there or you don't?

22 A I don't.

23 Q Okay. Do you recall asking Darla to
24 assist you --

25 A No.

1 Q -- with whatever needed to be done in the
2 room?

3 A No.

4 Q Because your testimony is Darla's coming
5 out of the dining facility?

6 A Yes.

7 Q Couldn't you have asked her to assist you?

8 A Yes.

9 Q Okay. But you don't have any recollection
10 that you did that?

11 A Correct.

12 Q And you don't have any recollection of
13 asking anyone else to assist you, correct?

14 A Correct.

15 Q But you know whatever needed to be done
16 got done, correct?

17 A Yes.

18 Q And if you're worried about using a
19 Kleenex, I'm sure you're concerned about whatever
20 the patient needed required two people and you were
21 going to get -- use two people to do it, right?

22 A Yes, because I can't -- she was heavy
23 enough that I couldn't roll her and hold her and
24 everything else by myself.

25 Q Okay. So is there a document that we

1 could look at to know that you did something that
2 night with that resident? Like do you sign off like
3 resident's -- you put in the notes or in the chart
4 like resident's light was on, two of us came in and
5 did whatever it is?

6 A No. We don't specifically write down
7 every single thing that we had done with the
8 residents that night.

9 Q Even when it requires two people?

10 A Yes.

11 Q Okay. When you ask Kelsey, allegedly, if
12 she's all right, what does she say?

13 A I don't remember.

14 Q Okay. What do you do next? Do you do
15 something with Kelsey, like walk her down to the
16 restroom, walk her to the nursing area? Do you do
17 anything?

18 A I don't remember.

19 Q What did you do the rest of the night?
20 Did you do anything?

21 A Yeah, I know I worked, but I don't --

22 Q Well, let's say the incident happened at
23 dinnertime. Let's say around 5:30, sometime between
24 5:00 and 5:30, 5:00 and 6:00, take your pick. Your
25 shift doesn't end until 11:00, correct?

1 A Yes.

2 Q So you had to have done something for the
3 next five or six hours --

4 A Yes.

5 Q -- to earn a paycheck, right?

6 A Yeah.

7 Q So what did you do?

8 A I took care of my residents. I can't
9 specifically tell you I went into one room and did
10 this and then did this.

11 Q Well, did you and Kelsey ever work
12 together in a two-person operation after that? I
13 mean, did anyone else need a two-person?

14 A I'm sure they did. I can't recall that
15 but --

16 Q Well, you didn't try to do it with just
17 yourself, right?

18 A No.

19 Q Did you ever ask Darla that night for
20 assistance?

21 A I don't think Darla was on the hall with
22 me that night.

23 Q Okay. So if -- strike that. Who would
24 you have asked for assistance other than Kelsey that
25 night?

1 A One of the nurses, if they were right
2 there or if I could find them.

3 Q By the way, since you don't know their
4 names, what do you say? "Hey you"? Is that what
5 you call a nurse?

6 A No. I haven't been there for over a year
7 and I don't remember the nurses' names.

8 Q Okay. So when you were there, you knew
9 the nurses' names?

10 A Yes.

11 Q And if I showed you a photo, you would
12 know who the nurses are?

13 A Probably.

14 Q Okay. You know who Jill is? You now
15 recall that she's a nurse?

16 A Yes.

17 Q How about June?

18 A June, I think she was the STNA on the
19 rehab.

20 Q Okay. Did you ask her for any help that
21 night?

22 A I don't remember.

23 Q Did you ever talk to Kelsey again that
24 night?

25 A I'm sure I did. She was on the hall with

1 me, but I don't recall every one of our
2 conversations or any of them.

3 Q Well, this night in particular, you
4 witnessed what you claim was Jane shoving Kelsey and
5 her stumbling against the wall. Had that happened
6 any other night?

7 A No.

8 Q So I would think this night stood out
9 because apparently you were concerned about Kelsey's
10 wellbeing, correct?

11 A Yes.

12 Q You asked her afterwards if she was okay?

13 A Uh-huh.

14 Q Right?

15 A Yes.

16 Q And you stood there for minutes witnessing
17 what was going on, correct?

18 A Yes.

19 Q So is there anything else about that night
20 and your interaction with Kelsey that sticks out?

21 A No.

22 Q About how old was Kelsey, if you remember,
23 when all this happened?

24 A I know she was in college. I don't
25 remember how old she was.

1 Q Did you and Kelsey do anything outside the
2 workplace?

3 A No.

4 Q Ever ride in her car?

5 A I think we might have went to break
6 together once or twice.

7 Q In her car.

8 A Sat in her car.

9 Q When you were on break together, would you
10 do anything in her car?

11 A We would sit out in her car and eat or she
12 would smoke a cigarette.

13 Q Okay.

14 A Just talk.

15 Q You didn't smoke?

16 A No.

17 Q When you were sitting out in her car with
18 her, was it before or after the incident with Jane?

19 A No. That wasn't that night. I'm just
20 saying that we have.

21 Q No, and I'm asking you if you have done it
22 before and after that night?

23 A I believe so.

24 Q Okay. When you were sitting in her car
25 with her during the breaks, did you read her witness

1 statement that she had written --

2 A No.

3 Q -- about what happened?

4 A Huh-uh. No.

5 Q No? Did the two of you ever compare
6 witness' statements?

7 A No.

8 Q Did you ever tell her what you wrote?

9 A No.

10 Q Did she ever tell you what she wrote?

11 A No.

12 Q Does the company not have a facility for
13 you to take a break in?

14 A Yes. We had a break room.

15 Q There's a break room. Then why do you go
16 sit in her car?

17 A Just so Kelsey can smoke and it's outside
18 and we weren't allowed to smoke inside.

19 Q I guess I'm curious as to why two STNAs
20 get to take a break at the same time. Doesn't that
21 leave the patients without an STNA?

22 A No.

23 Q Well, who takes care of them if you're on
24 break?

25 A The other STNAs. There was a total of

1 four STNAs working at one time.

2 Q Okay. Well, when I asked you if you asked
3 the other STNA for help, you kind of looked at me
4 and said, well, so and so works rehab. Is that one
5 of the four you're talking about?

6 A Yes.

7 Q Well, so you could have easily asked
8 another STNA to assist you, 'cause you claim there's
9 four?

10 A Yes.

11 Q So that night, it was -- that particular
12 night it was you, Kelsey, Darla --

13 A Yes.

14 Q -- and June?

15 A I believe June was there.

16 Q Okay. But there's no work rule that says
17 that the two STNAs that are assigned to a particular
18 floor can't take their breaks at the same time?

19 A I don't remember.

20 Q Okay. Well, I'm just curious, before the
21 two of you take your breaks together, and you go
22 outside, in particular, do you tell the other STNA,
23 either the one or the other or both that are left in
24 the building that you're taking a break?

25 A Yeah.

1 Q Where could I look to find that
2 information as to whether when you and Kelsey took
3 your breaks outside of the facility that you told
4 the other STNAs? Is it written in a log somewhere?

5 A No. It's just -- I tell Darla, hey, I'm
6 going to go on my supper break now, and then if it's
7 just me going, then I go tell Kelsey, I'm going to
8 go on my supper break now.

9 Q Well, I understand if you're taking a
10 break just by yourself. I get that. But you're
11 telling me two people are assigned to a floor, and
12 if the two people who are assigned to a floor both
13 leave at the same time, who watches that floor?

14 A I -- there -- it's all one floor. Like
15 it's one story. But I know that Darla was there
16 that night and most nights when me and Kelsey were
17 there, it was also with Darla and then whoever was
18 on rehab or assisted living.

19 Q Well, why is it that you and Kelsey are
20 STNAs together and, like, Darla is somewhere
21 separate and, let's say, June is somewhere separate?

22 A Because June was on assisted living and
23 then me, Kelsey, and Darla would be on the nursing
24 home side.

25 Q Okay. But do you get to pick what side

1 your on? Like when you go in during the day, do you
2 get to say, hey, I'm on the rehab side?

3 A No. They had it written up on the
4 blackboard.

5 Q Okay. Were you always -- were you ever
6 the person that was on the rehab side?

7 A No.

8 Q Okay. So it just seems like you and
9 Kelsey are always working together. Is that a fair
10 statement?

11 A For the most part, yes.

12 Q Would you say the two of you are paired up
13 like 95 percent of the time?

14 A Like 80 percent of the time, because I
15 know I've worked with Darla a bunch on the other
16 hall -- or on that hall, too.

17 Q Okay. Do you ever work with June?

18 A I believe she was on the nursing home side
19 a couple times.

20 Q Did you ever work Saturdays, so you worked
21 a different shift?

22 A I think I might have worked first shift
23 once.

24 Q Now, did you ever talk to anyone about
25 what happened other than giving a statement? I know

1 you gave a written statement --

2 A Yes.

3 Q -- but did you ever talk to anyone?

4 A I talked to a lawyer on the phone. I
5 don't remember who the lawyer was or where he was
6 from.

7 Q How long after the incident do you talk to
8 a lawyer?

9 A I know that was relatively soon after the
10 incident.

11 Q Did the person identify himself as a
12 lawyer?

13 A Yes.

14 Q Was his name Bob?

15 A I don't remember.

16 Q Was his name Barry?

17 A I do not remember.

18 Q Was it Brian?

19 A I don't remember his name.

20 Q Okay. But whoever it was, shortly after
21 the incident, told you that the person was a lawyer?

22 A Yes.

23 Q Did the person ask you questions about
24 what happened?

25 A Yes.

1 Q Okay. Did you say I put everything in my
2 written statement?

3 A No. I believe I talked to them about what
4 had happened.

5 Q Okay. Did they tell you that what you
6 said would be protected by privilege of some kind?

7 A I do not remember.

8 Q Was there anybody else with you when you
9 were talking to this person who claimed to be a
10 lawyer?

11 A No. I was on the phone with them.

12 Q Okay. In relation to the incident, let's
13 say the incident happened April 19th, 2013, on a
14 Friday --

15 A Uh-huh.

16 Q -- how long was it until you talked to
17 this person who claimed they were a lawyer? One
18 week? Two weeks? A month?

19 A I would probably say less than a month.

20 Q Less than a month. Did you ask the lawyer
21 any identifying questions like what bar are you a
22 member of? Where are you calling me from? Who do
23 you represent?

24 A No.

25 Q Okay. Did the lawyer volunteer any of

1 that information? Did he say I'm a lawyer and I
2 represent the company?

3 A I don't remember. I'm sure that he had
4 said something about the fact that he was working
5 for the nursing home.

6 Q Okay. This is important that you think,
7 because I don't want to get anyone in trouble that
8 shouldn't be in trouble. Do you specifically recall
9 this lawyer saying I work for the nursing home?

10 A No.

11 Q Okay. You just think that he might have
12 said that?

13 A Yes.

14 Q Okay. Did you take any notes during that
15 phone conversation?

16 A No.

17 Q I presume it was a guy. Was it a guy?

18 A Yes, I remember.

19 Q You could tell by the voice?

20 A Yes.

21 Q Did the person give you his first and last
22 name?

23 A I don't remember.

24 Q How long was it between the time that you
25 give your written statement and the time that you

1 talk to the person who says he's a lawyer?

2 A I believe it was within a month.

3 Q So I think before I asked you the time
4 between the incident and the time that you talked to
5 the person who said they were a lawyer. Now I'm
6 trying to figure out between the time that you wrote
7 your statement and the time that the person called
8 and told you that he was a lawyer.

9 A I know that I had written my statement
10 very -- like I believe it was within a week of this
11 happening --

12 Q Okay.

13 A -- that I had written my statement. And
14 then I also believe, if I'm remembering correctly,
15 that it was like within a month period from when I
16 had written my statement to when he had called me.

17 Q Okay. Did the person who told you that
18 they were a lawyer say that they had a copy of your
19 written statement?

20 A I don't remember.

21 Q Was there anything that you told the
22 person who said they were a lawyer that was
23 different than what was on your written statement?

24 A I do not believe so.

25 Q Okay. I take it, given that you claim

1 that you typed the statement on your telephone, that
2 you still have a copy of that statement?

3 A No.

4 Q Okay. When you talked to the person who
5 said they were a lawyer, did you have a copy of it
6 then?

7 A I might have then. I don't remember.

8 Q Okay. Why do you not no longer have a
9 copy on your phone?

10 A Because I had erased it off of my e-mail
11 and I no longer have that phone.

12 Q When did you get rid of that phone?

13 A I don't know.

14 Q Well, can you give us like a season maybe?

15 A It had to have been maybe a little over a
16 year ago, because the current phone I have right now
17 I've had for a little over a year.

18 Q And were you still working for the company
19 at the time you got the new phone?

20 A No.

21 Q So you had already left the company?

22 A Yes.

23 Q If the incident happened in April of '13,
24 when do you think you left the company?

25 A I do not remember.

1 Q Okay. I thought you said sometime between
2 Thanksgiving and Christmas?

3 A I believe so. I've worked several jobs in
4 the past two years. I really don't remember.

5 Q Okay. But even a year ago from today, you
6 would have still been working for the company under
7 that testimony?

8 A I believe so.

9 Q Okay. Then would you have still had that
10 phone?

11 A I --

12 Q You said you got rid of the phone after
13 you left the company. That doesn't make sense to me
14 given --

15 A I believe it was.

16 Q -- what you're telling me. If you left
17 the company after Thanksgiving of '13 but before
18 Christmas of '13, that whole year wouldn't be up
19 until this Thanksgiving?

20 A I know that I -- my -- the phone that I
21 have right now that I'm in a two-year contract.

22 Q Okay.

23 A I am almost halfway done with that. I'm a
24 little over halfway down.

25 Q Okay. Doesn't that lead you to believe

1 you were still working for the company when you
2 switched phones?

3 A I don't remember.

4 Q Did Kelsey ever ask you to witness her
5 witness' statement that she drafted?

6 A Did what?

7 Q Did Kelsey ever ask you to witness,
8 particularly on April 19th, a statement that she may
9 have filled out?

10 A I don't remember.

11 Q Did you know that she filled -- claims to
12 have filled out a statement and slid the statement
13 under Lorraine's door?

14 A I don't remember.

15 Q Did Kelsey ever tell you that she had
16 indicated on her statement that if something wasn't
17 done internally, she would involve the outside
18 authorities or words to that effect?

19 A I don't understand what you just said.

20 Q I'm asking you if Kelsey ever told you on
21 her witness' statement that she had threatened that
22 if something wasn't done about the situation
23 internally she was going to go outside the facility?

24 A No.

25 MR. GARRISON: Objection to form.

1 Q Did you understand that Kelsey's father
2 was a deputy sheriff?

3 A Yes, I knew that from prior conversations
4 about family.

5 Q What conversation would you have with her
6 when she would say my dad's a deputy sheriff?

7 A Just her talking about him getting home
8 late or being tired or --

9 Q Well, you knew she didn't live with her
10 dad, right?

11 A Yes.

12 Q She lived with her step-dad and mom?

13 A I thought that was -- I thought she lived
14 with her dad.

15 Q Did Kelsey ever tell you that she wrote on
16 her witness' statement I feel strongly something
17 needs to be done internally or else I will involve
18 outside authority?

19 A No.

20 Q Did you hear Kelsey at any time the night
21 of the April 19th, 2013, say that she felt she was
22 being treated like a slave?

23 A No.

24 Q You hear her say there was a good chance
25 she wouldn't be back on Monday?

1 A No.

2 Q Did you hear Kelsey that night say I hate
3 this place?

4 A Not that I remember.

5 Q What does "not that I remember" mean? She
6 may have said it, you just don't have present day
7 recollection?

8 A Yes.

9 Q Did you hear Kelsey say I don't know if
10 I'll be back on Monday that night?

11 A Not that I remember.

12 Q Did you hear Kelsey say I'm tired of being
13 a slave?

14 A Not that I remember.

15 MR. GARRISON: Take a couple
16 minutes --

17 MR. FRANKLIN: Sure.

18 MR. GARRISON: -- before you dive
19 into documents?

20 (Whereupon, a recess was taken at
21 3:25 p.m. and resumed at 3:33 p.m.)

22 BY MR. FRANKLIN:

23 Q Handing you what's been previously marked
24 as Plaintiff's Exhibit 16.

25 MS. PAOFF: 6.

1 Q 6. I'm sorry. Have you seen this
2 document prior to today?

3 A Yes.

4 Q Is this the document you reviewed in
5 preparation for your deposition?

6 A Yes.

7 Q For the record, what does this document
8 appear to be a copy of?

9 A This is a copy of my statement.

10 Q Okay. At the top, it says Clara Schriver.

11 A Ciara.

12 Q Ciara. Is that then a name you used to go
13 by?

14 A No. That was the name that I had on my
15 phone. It's my ex-boyfriend's last name. I -- my
16 legal name since I was born has been Ciara Rae
17 McConn.

18 Q Okay. But how long have you ever used
19 that name Ciara Schriver?

20 A I had it on my e-mail and on my Facebook
21 for a while.

22 Q Well, what's a while?

23 A I don't know. I was with him for two
24 years.

25 Q Years? Days? Months? Seconds? Minutes?

1 A Maybe a year, eight months, something to
2 that effect.

3 Q Did you ever refer to yourself by that
4 name?

5 A No.

6 Q Did you ever use that name in any legal
7 documents?

8 A No.

9 Q The two of you have a joint checking
10 account or savings account?

11 A No.

12 Q So the only time you used it was on your
13 Facebook?

14 A And my e-mail.

15 Q And on your phone?

16 A Yeah. I believe I had it on the e-mail
17 and my phone.

18 Q E-mail and phone. Where were you sending
19 it to?

20 A I sent it to my -- I believe I resent it
21 to my e-mail, and then I know I had it faxed to
22 St. Marys, because I had one of the ladies in the
23 office at Vantage fax it to the nursing home because
24 I did not know how to do it.

25 Q Okay. So where it says to Ciara Schriver

1 from Ciara Schriver, you were sending it to
2 yourself?

3 A Yes.

4 Q And then you forwarded it to 61, dash,
5 admin -- I don't see where you sent it to your
6 office at Advantage [sic]?

7 A No. I had it faxed. Like I had printed
8 it out.

9 Q Okay.

10 A I opened up my e-mail and I printed this
11 out. And then I went to the office and had the
12 office fax this to the nursing home because I didn't
13 know how to do it, but I was standing there while
14 she did it.

15 Q Okay. So you weren't at school at the
16 time? You were at work?

17 A No. When this happened, I was at school.
18 When I typed this, I was at school.

19 Q Okay. Because I see a date of April 21st,
20 2013. Do you see that? Where it says to Ciara
21 Schriver from Ciara Schriver, and then there's a
22 date in the middle. Do you see that?

23 A Oh, yeah, I see that.

24 Q And that says April 21st, 2013, do you see
25 that?

1 A Yes.

2 Q Okay. And that date is Sunday and I don't
3 think you were at school on Sunday.

4 A I know that I had the office fax this to
5 the nursing home.

6 Q Okay. Well, that's what I -- that's what
7 I'm having a hard time understanding and making
8 sense of your testimony. You would agree on
9 April 21st, 2013, at 6:43, dash, 43 p.m. eastern
10 standard time you were not in college -- were not in
11 school rather, correct?

12 A Yes.

13 Q You weren't either at the vocational
14 school nor were you at your high school?

15 A Yes.

16 Q Correct?

17 A Yes.

18 Q Then how does it have April 21st if you
19 were claiming that you were at school?

20 A I know that I had this faxed from my -- or
21 from Vantage to the nursing home. I don't remember
22 when I typed this and sent it to myself. I
23 obviously sent it to myself at that exact date and
24 time.

25 Q Okay.

1 A But I thought that I had did this at
2 school.

3 Q Yeah. That was your testimony. Your
4 testimony, I think, was I did it at school and then
5 I said what was the urgency, and you said, no, I did
6 it on a break. You might have even told me you did
7 it over lunch.

8 A Yes. I was at school when -- I remember
9 specifically that I was at school when I typed this
10 or when I had done it on my phone.

11 Q Okay. Then give me the day you were at
12 school and done it on your phone?

13 A I cannot tell you the exact date and time
14 that I did it at school on my phone because I don't
15 remember.

16 Q Well, we know it wasn't April 21st at
17 6:43 p.m., right?

18 A That I was not at school, that is correct.

19 Q Okay. So what's that date and time
20 signify?

21 A I don't know.

22 Q I mean, did you type out your statement
23 and then somebody made changes to your statement?

24 A No. I'm the only one that has access to
25 my e-mail, 'cause I log out of it on my phone when

1 I'm not on it.

2 Q But you have no explanation as to how that
3 date and time appears on this document?

4 A Correct.

5 Q Okay. I want to kind of start more at the
6 bottom. The second -- I'm not sure if it's a
7 paragraph. It says the whole time Jane was talking
8 to Kelsey?

9 A Okay.

10 Q It says the whole time Jane was talking to
11 Kelsey like she was a child or someone who could not
12 comprehend common day-to-day things. Do you see
13 that?

14 A Yes.

15 Q What was she saying that evidences that
16 she was talking to Kelsey like a child?

17 A The tone of voice she uses, 'cause she has
18 talked to me in that tone before and it's a very
19 putting-down tone.

20 Q Okay. So it was like condescending?

21 A What do --

22 Q Okay.

23 A I don't know what that means.

24 Q Okay. Since I apparently can't come up
25 with the right word, can you just -- and it won't be

1 picked up on the record, but I'll try to describe
2 it -- tell me what voice Jane was using?

3 A Like belittling. Talking to you like
4 you're a child and you can't comprehend anything.

5 Q Okay. But I don't understand that tone.
6 You didn't use any different tone than you've used
7 throughout this entire deposition.

8 A I don't -- I don't know how to do or
9 describe that tone --

10 Q You just know -- you can't do or describe
11 the tone --

12 A -- more than what I've said.

13 Q -- but whatever you heard, you think it
14 was she was treating Kelsey like she was a child?

15 A Yes. The tone of --

16 Q A child of four or five, a child of 12 or
17 13, what?

18 A Like a child under 10.

19 Q Okay. Do you have any kids yourself?

20 A No.

21 Q Other than Jane, has anyone else in your
22 life talked to you as if you were a child?

23 A Yes. My grandma.

24 Q Okay. So could it be something that is
25 connected with someone's age as opposed to the tone

1 that you're hearing?

2 A No. No. Like my grandma talks to me like
3 I am a baby and she uses the baby voice.

4 Q Okay. Well, was Jane using a baby voice?

5 A No.

6 Q Okay. You -- in the next paragraph up,
7 you start out by saying Jane was not yelling at
8 Kelsey, but it was way more than just a calm tone of
9 a regular conversation. Kelsey kept trying to
10 explain to Jane that she was just doing what she was
11 told. Jane kept getting more and more mad. She
12 grabbed Kelsey's shoulder and shoved her back
13 against the wall and was about five to six inches
14 away from Kelsey's face and was telling Kelsey that
15 she needed to get it through her head and listen to
16 Jane. Right after that, Darla asked me to help her
17 with another resident so I left at that point. Do
18 you see that?

19 A Yes.

20 Q Now, you told me that Darla came into the
21 situation after it was over. Jane had vanished and
22 Darla was coming from the dining room. And in this,
23 it appears that while it was happening, Darla asked
24 you to help her with other residents. I'm trying to
25 put two and two together. I mean, at what point in

1 the story does Darla come into the story?

2 A After Jane had pushed Kelsey.

3 Q Okay. Well, I thought you told me after
4 Jane disappeared, then Darla comes?

5 A I mean, she didn't just poof. I just
6 don't remember how she --

7 Q Okay. And you never told me that Darla
8 asked you for help.

9 A Yeah, because I did not remember that.

10 Q And that would have been the perfect
11 situation for you to say before I go to help you,
12 Darla, can you help me with this two-person
13 operation, but it doesn't sound like you did?

14 A I do not remember.

15 Q Okay. So you're not saying it didn't
16 happen, now you're saying I don't remember asking
17 Darla for help?

18 A I do not remember if I asked Darla for
19 help.

20 Q If you had heard Jane talk to you like
21 this in the past as if you were a child, was that
22 in -- when Jane was upset that you hadn't done
23 something right or was she counseling you or
24 teaching you or what was she doing?

25 A It was when I was taking one of the

1 resident's hose off and when I was pulling -- when I
2 was rolling them down, I had scratched her and I had
3 torn her skin and it was bleeding. And Darla was
4 instructing me on how to take socks off and was
5 talking to me like a little kid who does not know
6 how to put socks on.

7 Q Well, not -- for the record, it was Jane
8 that was instructing you, not Darla?

9 A Yes. Sorry.

10 Q Well, I mean, she's the DON and you took
11 the socks off someone and whether you meant to
12 scratch them and cut their skin or not, you still
13 did it, right?

14 A Yes.

15 Q So you don't think that she has a
16 responsibility to go over with you the right way to
17 do it?

18 A Yes. I understand that.

19 Q Okay. So she was counseling you after you
20 had done something wrong?

21 A Yes.

22 Q Correct?

23 A Yes.

24 Q Did you write an incident report that she
25 had talked to you in a voice that you thought was

1 like that of talking to a child?

2 A I do not know if I put that in my report.

3 I know that I had to write a report on -- that I had
4 scratched one of the residents and that I left a
5 skin tear on her leg.

6 Q Yeah. Well, I got that you had to write
7 that incident. I mean, that's mandated by law that
8 you write that incident report, correct?

9 A Yes.

10 Q In that same incident report, did you say
11 in spite of what I did, Jane talked to me like I was
12 a child?

13 A I don't know.

14 Q When did that incident take place?

15 A That was very soon after I started.

16 Q Do you think that the DON was acting
17 properly when she counseled you about rolling down
18 someone's socks and not tearing their skin?

19 A What do you mean acting properly?

20 Q Well, I mean was she doing something that
21 you thought was improper about talking to you about
22 tearing someone's skin?

23 A No.

24 Q If you knew that she was using a tone of
25 voice that she uses when she's providing some type

1 of counseling, why didn't you leave instead of stand
2 there for two minutes and witness what was going on?

3 A I don't remember.

4 Q Do you not like that kind of work, being
5 an STNA?

6 A No. I love that. I -- just it was taking
7 too much for me with being in school, so that's why
8 I'm back at McDonald's.

9 Q It takes too much from you for being in
10 school; you're not even in school yet?

11 A No. When I was in high school.

12 Q It was too much to go to high school and
13 work a part-time job?

14 A It was too much for me to get off at
15 11:00 at night and not have time to do my homework
16 and be back up for school in the morning on time.

17 Q You, in the second, looks like, paragraph,
18 say Friday night Jane and Kelsey were talking and
19 Jill was standing behind Jane and I walked over
20 because I needed to ask Kelsey a question about a
21 resident. So apparently when you wrote this, you
22 remember the nurse's name and that she was standing
23 behind Jane?

24 A Yes.

25 Q Okay. Now, as you sit here, does it

1 refresh your recollection seeing it in your own
2 writing, even though I think you read this earlier
3 today --

4 A No. I read it yesterday.

5 Q Okay.

6 A I did not read it today.

7 Q Did it not refresh your recollection
8 yesterday that Jill was standing behind Jane?

9 A No. I do not today remember Jill standing
10 behind Jane.

11 Q Okay. When Jane is having the
12 conversation with Kelsey, did Kelsey at any point
13 just say you're right, Jane, I won't do it again or
14 words to that effect?

15 A Not that I remember.

16 Q Was she countering everything Jane said
17 with words?

18 A What do you -- I don't understand.

19 Q Well, I mean Jane would say something and
20 Kelsey would say something back? I mean, did you
21 get that there was a back-and-forth exchange?

22 A I mean, they were having a conversation.

23 Q I mean, do you think at some point just
24 because a person's your supervisor that maybe you
25 just better say, okay, I understand your position,

1 and go about doing your work?

2 A In some cases, yes; in others, no.

3 Q Okay. So are you typically -- are you one
4 of those people that if the boss -- for instance,
5 when Jane was telling you, you know, here's how you
6 roll down the socks so you don't cut a little hole
7 in someone's skin, were you like back and forth or
8 did you just say I understand?

9 MR. GARRISON: Objection to form.

10 A No. I --

11 Q Go ahead.

12 MR. GARRISON: Go ahead.

13 A I said that I understand.

14 Q Okay.

15 A I mean, she was trying to show me how to
16 correctly take someone's sock off without scratching
17 them.

18 Q Okay. But you thought she was doing it in
19 a sense where she was talking to you as a child?

20 A Yes. Her tone of voice was.

21 Q How long did the interaction go on between
22 you and Jane when you -- she was giving you this
23 instruction about how to properly take off someone's
24 socks?

25 A Just a couple minutes. Just, you know,

1 roll them down and don't do this. Like do that to
2 roll them down.

3 Q Okay. And you seem to be taking exception
4 to the fact that you believe she talked to you in a
5 child's voice?

6 A She talked to me like I was a child.

7 Q Okay. How -- what would you have liked
8 her to have done?

9 A I mean, at least talk to me like I was a
10 human.

11 Q Aren't children human?

12 A Yes. But she was talking to me like I
13 knew nothing, absolutely nothing.

14 Q Well, maybe at the time you put a scratch
15 on one of the residents, she felt that way, like you
16 absolutely knew nothing. Was the resident bleeding?

17 A Yes.

18 Q Okay. I presume that's one of the
19 resident's rights, the right to not be cut by the
20 STNA?

21 A Yes.

22 Q Okay. When you talked to the person that
23 said that they were a lawyer, was anybody else on
24 the phone?

25 A I do not believe so.

1 Q Did you ever talk to anyone from the
2 company where they said someone else is on the
3 phone?

4 A I don't remember.

5 Q Did the person that told you they were an
6 attorney ask you to do anything? Other than give
7 them information over the phone, did they give you a
8 project to do or something to do afterwards? Like
9 canvass the other employees or anything to that
10 effect?

11 A Not that I remember.

12 Q Tell me how it works between a vocational
13 high school and the -- your regular high school. Do
14 you go to both schools at the same time?

15 A No.

16 Q How does it work?

17 A I went to Van Wert, my home school,
18 freshman and sophomore year.

19 Q Okay.

20 A And then junior year, I went to Vantage
21 for health tech.

22 Q Vantage?

23 A Yes.

24 Q For health tech?

25 A And junior year, I had lab in the

1 afternoon, so I would go to my -- I can't remember
2 my exact classes, but I know that I had English and
3 math and some kind of history class, and I believe I
4 was -- I had a science class. I would go to those
5 four periods and I would go to lunch and I would go
6 to my lab, which is my health tech.

7 Q Okay. So your junior year, did you go
8 back to Van Wert --

9 A No.

10 Q -- for half a day?

11 A No. We had classrooms for English and
12 math and science at Vantage.

13 Q Okay. And then what happens your senior
14 year?

15 A It was the same thing, but I had my lab in
16 the morning and my classes in the afternoon.

17 Q So you still take some type of core
18 curriculum when you're a junior and a senior?

19 A Yes.

20 Q I mean is it like basic English, basic
21 math, or I mean are they accelerated classes,
22 advanced classes? What are the core classes?

23 A I -- I still have to take the classes that
24 I -- by the State of Ohio that I have to take in
25 order to graduate.

1 Q Do you still have to take the same testing
2 that the State of Ohio requires you to test to pass
3 high school?

4 A Yes.

5 MR. FRANKLIN: Let's take five
6 minutes, Brian. I think I'm almost done.

7 (Whereupon, a recess was taken at
8 3:57 p.m. and resumed at 4:05 p.m.)

9 BY MR. FRANKLIN:

10 Q When was the last time you talked to
11 Lorraine?

12 A Probably when -- I believe it was last
13 time I was actually there.

14 Q Did Lorraine try to talk you out of
15 leaving?

16 A I don't remember.

17 Q You don't think that would be something
18 you'd remember?

19 A I do not remember.

20 Q Were you asked to leave?

21 A No.

22 Q Did you tell Lorraine why you were
23 leaving?

24 A Yes.

25 Q What did you tell her?

1 A I told her something to the fact with me
2 driving so much and not getting home until late and
3 with me putting as much money as I was into gas,
4 wear and tear on my car, that it just wasn't worth
5 it to me with the pay.

6 Q Would it have been worth it if you were
7 moved from part time to full time?

8 A No, because I still would have been
9 driving back and forth every day and I wouldn't have
10 been able to balance school and work if I was full
11 time.

12 Q The school that you're going to is 18
13 months, this business school?

14 A Yes.

15 Q Do you have a spring break in that school?

16 A I think. I don't 100 percently [sic]
17 remember.

18 Q Are you going to keep your residence as
19 your current residence?

20 A No. I'm moving to Indiana.

21 Q Okay.

22 A Going to live in the dorms.

23 Q You're going to live in the dorms?

24 A Yes. It's an hour and 15 minutes away
25 from my dad's house. I'm not driving that far.

1 Q Well, in March there's a trial date in
2 this case. I'm just wondering if you're going to be
3 available for trial?

4 A I would prefer not to miss school.

5 Q Well, if subpoenaed to come to court and
6 you end up being there, are you going to be upset
7 with Jane?

8 A No.

9 Q I mean, are you going to tell the truth?

10 A Yes.

11 Q You're not going to take it out on her
12 that you're missing school, are you?

13 A No.

14 Q Who do you stay in contact with at
15 St. Marys? Anyone?

16 A No one really. I haven't talked to Kelsey
17 for a long time until she called me and said that
18 there was going to be a lawyer in contact with me.

19 Q Anyone else?

20 A I talked to Miranda, but we were friends
21 before she worked there because we worked at
22 McDonald's together and we never worked together.

23 Q What position did Miranda hold?

24 A I believe she's an STNA.

25 Q Is she still there?

1 A Yes. I quit there and then later on she
2 got a job.

3 Q Okay.

4 A But we text every once in a while.

5 Q Do you have a Facebook account?

6 A Yes.

7 Q Which current or former employees of
8 St. Marys are you Facebook friends with?

9 A I believe I have Jill on there. I know I
10 have Kelsey on there, and I have Vicki on there, and
11 I have Miranda on there. I don't know if you want
12 to know that.

13 Q Anyone else?

14 A I don't believe so.

15 Q Do you have Liz?

16 A Who.

17 Q Liz?

18 A I --

19 Q Worked in the cafeteria?

20 A I don't think so.

21 Q Do you have Darla?

22 A No. I have Cassie on there. She worked
23 there for a while.

24 Q What did she do?

25 A She was an STNA.

1 Q Anyone else, current or former employees
2 of St. Marys that are your Facebook friends?

3 A I don't think so.

4 Q Is your Facebook private or public?

5 A It's private.

6 Q Was Jill your Facebook friend when you --
7 when she was still working there when you were still
8 there?

9 A Yes.

10 Q Kelsey, was she your Facebook friend while
11 the two of you were still working there together?

12 A Yes.

13 Q Okay. What about Vicki?

14 A Vicki was while I was working there.

15 Q Miranda?

16 A That was way before she worked there and I
17 worked there.

18 Q Cassie?

19 A Cassie, it was while I was working there.

20 Q Have you had to use St. Marys for any type
21 of reference since you've left?

22 A I put it down as a prior job when I got a
23 job at Vancrest which was a nursing home in Van
24 Wert.

25 Q Okay. Do you know what they said about

1 you, whether you were a good employee --

2 A No.

3 Q -- or did they just give your date of hire
4 and date of separation?

5 A I do not know. They don't tell us that.

6 Q But the truth would be that you resigned
7 from there, correct?

8 A Resign means quit, right?

9 Q Yeah.

10 A Yes.

11 Q You didn't file for unemployment?

12 A No.

13 Q How long is it between the time that you
14 quit and the time you either start working at
15 McDonald's or get your hours increased?

16 A I went from working at St. Marys to
17 Vancrest.

18 Q How many hours do you get at McDonald's
19 currently? Are you still there?

20 A Yeah. For right now, until I leave for
21 college. Like 20 a week maybe.

22 Q How many does Vancrest give you?

23 A I don't work there any more.

24 Q Okay. Where do you work?

25 A I work at McDonald's.

1 Q Just McDonald's 20 hours a week?

2 A Yes.

3 Q Is there the opportunity to work part time
4 and you just don't want to work part time?

5 A I am working part time.

6 Q Is there an opportunity to work full time?

7 A No. I have to be management and when I
8 went back to McDonald's, I asked to be management,
9 but Robin who is the store manager told me that she
10 wasn't going to give me management because I was
11 leaving for college.

12 Q So your testimony is the most amount of
13 hours you can get without going into management is
14 20?

15 A No. The most amount of hours I can get a
16 week is 28 hours.

17 Q Twenty-eight?

18 A Yes. I averagely get scheduled 20 and
19 then I get called in several hours.

20 Q Is that filling other people's -- if they
21 call off?

22 A Yes.

23 Q When you were at Vancrest, did you get any
24 type of evaluation?

25 A I don't think so.

1 Q Who was your immediate supervisor?

2 A I can't think of her name. She -- the DON
3 for Vancrest has quit since I was there.

4 Q Okay. But you don't remember who she was?

5 A I don't remember her name.

6 Q How do you know she's since quit?

7 A Because she quit while I was there.

8 Q And then someone else became the DON?

9 A Yes.

10 Q Who was that?

11 A I don't remember.

12 Q How long was it before you left?

13 A It was shortly before I left.

14 Q Were you worried at all that giving a
15 statement in this case could be used as some form of
16 retaliation, would cause you to be retaliated
17 against by anyone?

18 A No.

19 Q Why did you write then I do not want this
20 to put my job into jeopardy or make it so that
21 anyone is treating me wrong because of this? Why
22 would you write that if you weren't worried about
23 any type of retaliation?

24 A While I was working there. I did not want
25 to be treated differently because I wrote a

1 statement while I was working in St. Marys.

2 Q Okay. Well, did anyone treat you --

3 A No.

4 Q -- differently? Did anyone retaliate
5 against you?

6 A No.

7 Q Just so I understand, if subpoenaed to
8 come in and testify in March of '15, you'll come in
9 and tell the truth?

10 A Yes.

11 Q You intend on legally changing your
12 residence though?

13 A No. I'm going to keep my residence at my
14 dad's.

15 Q At your dad's?

16 A Yes, so that I don't have to change my
17 license plate, get a different state license plate
18 and all that stuff.

19 MR. FRANKLIN: I have no further
20 questions.

21 MR. GARRISON: I don't have anything.
22 Reserve signature.

23 (Whereupon, the deposition was
24 concluded at 4:15 p.m.)

25 - - -

CIARA R. McCONN
CIARA R. McCONN

C-E-R-T-I-F-I-C-A-T-E

I, Teri Genovese Mauro, a Notary Public in and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within-named Witness, CIARA R. MCCONN was by me first duly sworn to tell the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by her was by me reduced to stenotype in the presence of said Witness, afterwards transcribed upon a computer; that the foregoing is a true and correct transcription of the testimony so given by her as aforesaid.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified and was completed without adjournment.

I do further certify that I am not a relative, employee or attorney of any of the parties hereto, or otherwise interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Toledo, Ohio, on this 3rd day of October, 2014.

	TERI GENOVESE MAURO
My Commission expires	Notary Public
June 8, 2018.	in and for the State of Ohio